

Section 335.

Protection and Enhancement of Public Access to the Shore

A. Definitions

1. Public access to the shore is a general term used to describe the ways and means by which the public may legally reach and enjoy the coastal areas and resources of the State.
2. Public right-of-way is a parcel of land over which the public has a right to access tidal waters.

B. Findings

1. In accordance with Article 1, Section 17 of the Constitution of the State of Rhode Island, the public has the legal right to use and enjoy Rhode Island's coastal resources.
2. As trustee of Rhode Island's coastal resources and in accordance with state and federal statutory mandates, the Council has a responsibility to ensure that public access to the shore is protected, maintained and, where possible, enhanced for the benefit of all.
3. Tourism and tourism-related industries, recreational boating and fishing, and commercial fishing contribute significantly to the economy of Rhode Island and are dependent upon adequate access to the shore throughout the State.
4. The scenic qualities of the Rhode Island coast are one of the State's greatest natural assets and economic resources. The ability to view the coast and shoreline areas without obstruction by structures is an integral component of public access to the shore in Rhode Island.
5. A wide variety of opportunities for public access exist in Rhode Island. However, poor site conditions exist at many access sites and many sites are not accessible to individuals with disabilities.
6. Well-designed and maintained public access sites and improvements to existing public access sites can enhance the value of adjacent properties. In addition, properly designed, maintained and marked public access facilities, including adequate parking areas, can reduce the pressures for use of

or infringement upon adjacent properties.

7. The Council recognizes that, due to public safety, security or environmental considerations, certain sites may not be appropriate for physical access.
8. The placement of structures, such as seawalls and rip rap, in or along the shore may alter shoreline processes and reduce the amount of public access available.
9. Certain activities which require the private use of public trust resources to the exclusion of other public uses necessarily impact public access. In general, these activities include:
 - a. Commercial and industrial development and redevelopment projects, as defined in section 300.3.
 - b. New and significant expansions to marinas, as defined in section 300.4.
 - c. Activities which involve the filling of tidal waters, as defined in section 300.10, other than those considered as maintenance, as defined in section 300.7.

C. Policies

1. It is the Council's policy to protect, maintain and, where possible, enhance public access to and along the shore for the benefit of all Rhode Islanders.
2. It is the Council's policy to require applicants to provide, where appropriate, access of a similar type and level to that which is being impacted as the result of a proposed activity or development project.
3. Due to their likelihood of impacting public access and/or the public's use and enjoyment of Rhode Island's public trust resources, it is the Council's policy to require that applications for the following activities include a public access plan:
 - a. Commercial and industrial development and redevelopment projects, as defined in section 300.3.
 - b. New and significant expansions to marinas, as defined in section 300.4.

c. Activities which involve the filling of tidal waters, as defined in section 300.10, other than those considered as maintenance, as defined in section 300.7.

In accordance with Section 120, a variance from this policy may be granted if an applicant can demonstrate that no significant public access impacts will occur as a result of the proposed project.

4. Publicly funded beach nourishment projects shall contain a public access component.

5. In accordance with R.I.G.L. 32-6-5(c), limited liability applies when the CRMC stipulates public access as a permit condition and when the Council designates a public right-of-way to the shore.

D. General Guidelines

1. Any public access impacts associated with a proposed project should be avoided and minimized to the maximum extent possible.

2. Any public access created to compensate for proposed project impacts should be of a type and level similar to that which will be impacted.

3. In cases where access cannot practically be provided onsite, due to safety, security, environmental or other considerations, the Council may permit access be provided offsite.

4. All structural shoreline protection facilities should be designed and constructed in a manner which does not reasonably interfere with the public's right to pass and repass along the shore.

E. Guidelines for the Development of Public Access Plans

1. The Council recognizes that public access plans should be developed based on the uniqueness of each site and encourages applicants to consult with staff early in the planning process.

2. Public access plans should provide for a level of access directly proportional to, and a type of access similar to, that which will be impacted by the proposed project.

3. In cases where access of a similar type and level can not be provided onsite, the Council will

consider offsite alternatives. Applicants should consult with staff and municipal officials when considering offsite alternatives.

4. All public access plans should be consistent with the Americans with Disabilities Act of 1990.

5. All public access plans should provide for long-term maintenance.

6. When developing public access plans, applicants may incorporate the following examples:

a. Physical access: the ability to reach the shoreline from upland areas via perpendicular access points such as rights-of-way, boat launch ramps, and fishing piers; and, the ability to pass and repass laterally along the shore.

b. Visual access: the ability to view the coast and shoreline areas without obstruction by structures. Visual access can be provided or enhanced through the provision of viewing platforms, observatories, scenic drives, and innovative architectural designs.

c. Interpretive access: the provision of signage, plaques, or other techniques to educate the public about the historical, ecological, economic, cultural or other significant aspects of a coastal site.